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AREY et al. v. LINDSEY et al.

November 23, 1904.

[48 S. E. 889.]

CONSTITUTIONAL LAW—CONSTRUCTION OF CONSTITUTION—RETROACTIVE EFFECT.

1. Constitutions, as well as statutes, are construed to operate prospectively, unless on the face of the instrument or enactment the contrary intent is manifest beyond reasonable question.

2. Const. 1902, sec. 117, providing for the enactment of general laws for the organization of cities and towns, and forbidding the passage of special acts in relation thereto; and section 126, directing the General Assembly to provide by general laws for the extension and contraction of the corporate limits of cities and towns, and declaring that no special act for such purpose shall be valid—do not abrogate or repeal the special act of February 16, 1901 (Acts Ex. Sess. 1901, p. 267, c. 244), amending the charter of a certain town, and extending the corporate limits thereof subject to the approval of a majority of the qualified voters, but such extension of limits was valid, notwithstanding the constitutional provisions, and although the election provided for was not held until after the Constitution became operative.

MURRAY et al. v. RICKARD et. al.

November 23, 1904.

[48 S. E. 871.]

BROKERS—SALE OF LAND—COMMISSIONS—CONTRACT—CONSTRUCTION.

1. The owner of land authorized a broker to make a sale thereof, and allowed him a specified percentage on the purchase price, commissions to be paid out of the payments. The terms of the contract, as outlined in a letter, called for an option with payments at stated intervals. Thereafter, in the presence of the broker, and with his apparent consent, a deed was given a purchaser found by him, the vendee giving a deed of trust to secure the payments. The original letter written by the vendor to the broker authorizing the sale was made an exhibit as "the contract" relied on. *Held*, that the broker's rights depended on the terms of the letter.

2. The owner of land authorized a broker to make a sale thereof, "commissions to be paid out of the payments as made," and the letter, in setting forth the terms of sale, provided that on default by the purchaser all former payments should be forfeited, and neither party have any claim on the other. The broker found a purchaser, who gave a deed of trust to secure the payments, and subsequently defaulted. Thereafter the vendor released the vendee from his obligations, and conveyed to another, and the broker sued for commissions on the entire price. *Held*, that the contract between the parties did not entitle the broker to commissions except on those payments actually made by the vendee.